

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TRACY LEE DOTSON,

Petitioner,

v.

DENIEL McELLER,

Respondent.

Case No. 1:15-cv-01267- GSA-HC

ORDER TRANSFERRING CASE TO THE
CENTRAL DISTRICT OF CALIFORNIA,
WESTERN DIVISION

Petitioner is a California state detainee proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court notes that he has not paid the \$5.00 filing fee or submitted an application to proceed in forma pauperis for this action. On August 11, 2015, Petitioner filed the instant petition for writ of habeas corpus in this Court challenging his commitment to Atascadero State Hospital.

When a prisoner files a state habeas petition in a state that contains two or more federal judicial districts, the petition may be filed in either the judicial district in which the petitioner is presently confined or the judicial district in which he was convicted and sentenced. See 28 U.S.C. § 2241(d); Rumsfeld v. Padilla, 542 U.S. 426, 442 (2004) (quoting Carbo v. United States, 364 U.S. 611, 618, 81 S. Ct. 338, 5 L. Ed. 2d 329 (1961)). Petitions challenging convictions or sentences are preferably heard in the district of conviction. See Laue v. Nelson, 279 F.Supp. 265, 266 (N.D.Cal. 1968). Petitions challenging the execution of a sentence are

1 preferably heard in the district where the inmate is confined. See Dunne v. Henman, 875 F.2d
2 244, 249 (9th Cir. 1989). Section 2241 further states that, rather than dismissing an improperly
3 filed action, a district court, “in the exercise of its discretion and in furtherance of justice[,] may
4 transfer” the habeas petition to another federal district for hearing and determination. Id.; see
5 also 28 U.S.C. § 1404(a) (court may transfer any civil action “to any other district or division
6 where it might have been brought” for convenience of parties or “in the interest of justice”).

7 The instant petition attacks Petitioner’s commitment to Atascadero State Hospital, which
8 appears to be as a result of a proceeding in the San Luis Obispo County Superior Court, which is
9 within the jurisdictional boundaries of the United States District Court for the Central District of
10 California. See 28 U.S.C. § 84(c)(2). Also, Atascadero State Hospital is located in San Luis
11 Obispo County, Western Division. Therefore, venue is proper in the Central District of
12 California, Western Division.

13 Accordingly, the Court HEREBY ORDERS that the petition for writ of habeas corpus be
14 TRANSFERRED to the United States District Court for the Central District of California, Western
15 Division.

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18 IT IS SO ORDERED.

19 Dated: August 20, 2015

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE